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11 Attorneys for Plaintiff. Mavrix Photographs LLC

12 **UNITED STATES DISTRICT COURT**
13 **CENTRAL DISTRICT OF CALIFORNIA**
14 **WESTERN DIVISION**

15
16 MAVRIX PHOTOGRAPHS LLC, a limited
liability company,

17
18 Plaintiff,

19 v.

20 FAN DROPPINGS LLC, a Texas limited
21 liability company; Bradley Fiegel, an
individual; Brian Fiegel, an individual; and
22 DOES 1-10 INCLUSIVE,

23 Defendants.
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Case No. 2:15-cv-318

**COMPLAINT FOR COPYRIGHT
INFRINGEMENT**

DEMAND FOR JURY TRIAL

1 Mavrix Photographs LLC (“Mavrix”), by and through its attorneys of record,
2 complains against Fan Droppings LLC, Bradley Fiegel, Brian Fiegel, and DOES 1-10
3 (collectively “Defendants”) as follows:

4 **JURISDICTION AND VENUE**

5 1. This is a civil action against Defendants for their acts of copyright
6 infringement in violation of the United States Copyright Act, 17 U.S.C. §§ 101 *et seq.* This
7 Court has subject matter jurisdiction over the copyright infringement under 28 U.S.C. §
8 1331, 17 U.S.C. § 501(a), and 28 U.S.C. § 1338(a).

9 2. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (c) and 28
10 U.S.C. § 1400(a) in that the claim arises in this Judicial District, the Defendants may be
11 found and transact business in this Judicial District, and the injury suffered by Plaintiff took
12 place in this Judicial District. Defendants are subject to the general and specific personal
13 jurisdiction of this Court because of their contacts with the State of California.

14 **PARTIES**

15 3. Plaintiff Mavrix is a limited liability company existing under the laws of
16 California, with its principal place of business in Los Angeles, California.

17 4. Plaintiff is informed and believes and, upon such, alleges that Fan Droppings
18 LLC is Texas limited liability company, with its principal place of business in Houston,
19 Texas.

20 5. Plaintiff is informed and believes and, upon such, alleges that Defendant Brian
21 Fiegel, an individual who resides in Houston, Texas, is the co-founder, owner, and director
22 of Fan Droppings LLC.

23 6. Plaintiff is informed and believes and, upon such, alleges that Defendant
24 Bradley Fiegel, an individual who resides in Batavia, Illinois, is the co-founder, owner, and
25 director of Fan Droppings LLC.

26 7. Plaintiff is informed and believes, and upon such, alleges that Defendants are
27 the alter egos of each other and have a tangled set of relationships. On information and
28 belief, all Defendants are responsible in part for the copyright infringement that occurred

1 on the website Tigerdroppings.com. Further, on information and belief, the Defendants
 2 have a unity of interest as Brian and Bradley Fiegel are the sole owners of the website. The
 3 above defendants are, on information and belief, engaged in a coordinated scheme to
 4 undermine copyright laws by way of stealing copyrighted images of content owners, such
 5 as plaintiff Mavrix, using those images on their websites and then gaining significant traffic
 6 to their website as a result of the high value celebrity images. On information and belief, it
 7 would be inequitable to Plaintiff if these Defendants are not treated as alter egos of each
 8 other.

9 8. DOES 1 through 10, inclusive, are unknown to Plaintiff, who therefore sues
 10 said Defendants by such fictitious names. Plaintiff will ask leave of Court to amend this
 11 Complaint and insert the true names and capacities of said Defendants when the same have
 12 been ascertained. Plaintiff is informed and believes and, upon such, alleges that each of the
 13 Defendants designated herein as a “DOE” is legally responsible in some manner for the
 14 events and happenings herein alleged, and that Plaintiff’s damages as alleged herein were
 15 proximately caused by such Defendants.

16 **STATEMENT OF FACTS**

17 ***The Photo Forming the Subject Matter of This Dispute***

18 9. Mavrix Photo, Inc. (MPI) is a prominent celebrity photography agency that
 19 licenses its photographs on an exclusive and non-exclusive basis to a multitude of top-tier
 20 media outlets, including, the world’s leading newspapers, television programs and
 21 magazines, like People or US Weekly. MPI has licensed individual images of celebrities
 22 for over \$100,000 to major content outlets.

23 10. MPI made certain photographs of pop-star Katy Perry available for licensing
 24 on an individual or blanket basis through MPI since the first publication of the images.
 25 One of those images is referred to herein as the “Perry Photo.”

26 11. MPI filed for copyright registration of the Perry Photo within 90 days of its
 27 authorship and first publication.
 28

1 12. MPI has assigned to Plaintiff Mavrix all rights (including the copyright) to the
2 Perry Photo.

3 *The Defendants and the Marketplace*

4 13. On information and belief, Defendant Fan Droppings LLC (referred to herein
5 as “Fan Droppings” or “TigerDroppings”) is a sophisticated and successful publisher
6 serving its readers through a popular sports website, tigerdroppings.com.

7 14. On information and belief, despite Defendants’ focus on Louisiana State
8 University sports, the website appeals to a broad sports fan-base from all over the country.

9 15. On information and belief, Fan Droppings’ goal of reaching the sports-fan
10 community around the United States and beyond is evident in the advertising materials
11 displayed and evident from their links to other sports stories that relate to other national
12 sports teams. Some of the advertising materials and links to sports stories are even directed
13 to Los Angeles and Los Angeles-based sports teams.

14 16. Plaintiff alleges, on information and belief, that Defendants owned and
15 operated TigerDroppings.com at all times relevant to this dispute.

16 17. Defendants have, on information and belief, violated federal law by willfully
17 infringing Mavrix copyright to at least one photographs on TigerDroppings.com. Attached
18 hereto as Exhibit A is a true and correct copy of a screenshot showing Defendants’ use of
19 the Perry Photo on TigerDroppings.com.

20 18. Defendants reproduced, distributed and publicly displayed the Perry Photo, on
21 their website without permission, consent, or license.

22 19. On information and belief, Defendants’ infringement continues unabated to
23 this very day.

24 20. On information and belief, Defendants herein have driven significant traffic to
25 TigerDroppings.com in large part due to the presence of the sought after and searched-for
26 celebrity images that frame this dispute. All of this traffic translates into substantial ill-
27 gotten commercial advantage and revenue generation for Defendants as a direct
28 consequence of their infringing actions.

FIRST CLAIM FOR RELIEF

(Copyright Infringement, 17 U.S.C. § 501)

21. Plaintiff Mavrix incorporates here by reference the allegations in paragraphs 1 through 20 above.

22. Mavrix is the rightsholder to the copyrights of the Perry Photo, which substantially consists of wholly original material that constitutes copyrightable subject matter under the laws of the United States. MPI and Mavrix have complied in all respects with the Copyright Act and all of the laws of the United States governing copyrights. The Perry Photo has been timely registered with the United States Copyright Office. The copyright registration numbers for the Perry Photo is VA-1-737-808.

23. All rights, including copyrights, in and to the Perry Photo protected under registration number VA 1-737-808 were assigned to Plaintiff on or around February 25, 2013.

24. Defendants have directly, vicariously and/or contributorily infringed, and unless enjoined, will continue to infringe Mavrix's copyrights by reproducing, displaying, distributing and utilizing the Perry Photo for purposes of trade in violation of 17 U.S.C. § 501 *et seq.*

25. Defendants have willfully infringed, and unless enjoined, will continue to infringe Mavrix's copyrights by knowingly reproducing, displaying, distributing and utilizing the Perry Photo for purposes of trade.

26. On information and belief, Defendants' acts of infringement are willful because, inter alia, the Defendants are sophisticated online publishers with full knowledge of the strictures of federal copyright law and the basic requirements for licensing the use of copyrighted content for commercial exploitation.

27. On information and belief, Defendants, despite such knowledge, willfully reproduced, publicly distributed and publicly displayed the Perry Photo on TigerDroppings.com.

1 28. Defendants have received substantial benefits in connection with the
2 unauthorized reproduction, display, distribution and utilization of the Perry Photo for
3 purposes of trade, including by increasing the traffic to Defendants' website and, thus,
4 increasing the advertising fees realized.

5 29. The actions of Defendants were and are continuing to be performed without
6 the permission, license or consent of Mavrix.

7 30. The wrongful acts of Defendants have caused, and are causing, great injury to
8 Plaintiff, of which damages cannot be accurately computed, and unless this Court restrains
9 Defendants from further commission of said acts, Mavrix will suffer irreparable injury, for
10 all of which it is without an adequate remedy at law. Accordingly, Plaintiff seeks a
11 declaration that Defendants are infringing Mavrix's copyrights and an order under 17
12 U.S.C. § 502 enjoining Defendants from any further infringement of Plaintiff's copyrights.

13 31. As a result of the acts of Defendants alleged herein, Mavrix has suffered and is
14 suffering substantial damage to its business in the form of diversion of trade, loss of profits,
15 injury to goodwill and reputation, and the dilution of the value of its rights, all of which are
16 not yet fully ascertainable.

17 32. Because of the willful nature of the copyright infringement, Plaintiff is entitled
18 to an award of statutory damages of up to \$150,000 per work infringed.

19 33. Plaintiff has identified at one work infringed by Defendants, which occurred
20 by way of reproduction, public distribution and public display of the Perry Photo on
21 TigerDroppings.com. Therefore, Mavrix is entitled to an award of \$150,000 in statutory
22 damages.

23 34. Alternatively, at its discretion, Mavrix is entitled to actual damages in an
24 amount to be proven at trial for the infringement of all works at issue.

25 35. Plaintiff is also entitled to its attorney's fees in prosecuting this action.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests judgment against Defendants as follows:

1. The Defendants, their officers, agents, servants, employees, representatives, and attorneys, and all person in active concert or participation with them, be permanently enjoined from designing, copying, reproducing, displaying, promoting, advertising, distributing, or selling, or any other form of dealing or transaction in, any and all advertising and promotional materials, print media, signs, Internet websites, or any other media, either now known or hereafter devised, bearing any design or mark which infringe, contributorily infringe, or vicariously infringe upon Plaintiff Mavrix's rights in the photographs at issue.

2. Defendants be held liable to Plaintiff in statutory damages for copyright infringement, including willful infringement, in accordance with 17 U.S.C. §§ 504(a)(2) & (c) and for costs, interest and reasonable attorney's fees pursuant to 17 U.S.C. § 505.

3. An accounting be made for all profits, income, receipts or other benefit derived by Defendants from the reproduction, copying, display, promotion, distribution or sale of products and services, or other media, either now known or hereafter devised, that improperly or unlawfully infringes upon Plaintiff's copyrights pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

4. Requiring Defendants to account for and pay over to Plaintiff all profits derived by Defendants from their acts of copyright infringement and to reimburse Plaintiff for all damages suffered by Plaintiff by reasons of Defendant's acts, pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

5. Actual damages for copyright infringement pursuant to 17 U.S.C. §§ 504 (a)(1) & (b).

6. That Plaintiff be awarded any such other and further relief as the Court may deem just and appropriate.

1 Dated: January 15, 2015

ONE LLP

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3 By: /s/ Joanna Ardalan
4 Peter R. Afrasiabi, Esq.
5 John Tehranian, Esq.
6 Joanna Ardalan, Esq.
7 Attorneys for Plaintiff,
8 Mavrix Photographs LLC
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DEMAND FOR JURY TRIAL

Plaintiff Mavrix Photographs LLC hereby demands trial by jury of all issues so triable under the law.

Dated: January 15, 2015

ONE LLP

By: /s/ Joanna Ardalan

Peter R. Afrasiabi, Esq.

John Tehranian, Esq.

Joanna Ardalan, Esq.

Attorneys for Plaintiff,

Mavrix Photographs LLC